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RANDELL PARKER
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**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

In the Matter of

Case No. 10-10747-B-7K
DC No. RP-1

DONALD RAY CHERRY,

Debtor

Date: June 3, 2010
Time: 10:00 a.m.
Place: United States Bankruptcy Court
1300 18th Street, Suite A
Bakersfield, CA
/ Judge: Honorable W. Richard Lee

**MOTION FOR ORDER AUTHORIZING TRUSTEE TO SELL PERSONAL PROPERTY AT
PUBLIC AUCTION**

Randell Parker, Chapter 7 Trustee moves this court for an Order Authorizing Trustee to
Sell Personal Property at Public Auction Sale and represents as follows:

1. Donald Ray Cherry ("Debtor") filed a Voluntary Petition Under Chapter 7 on January
26, 2010. Randell Parker is the duly qualified, appointed and acting trustee in the case filed by
Debtors.

2. The assets of the estate include, but are not limited to a 2008 Jeep Wrangler.
According to the Schedules of Assets and Liabilities filed by Debtor, there is a lien of \$8,541.91
and the debtor filed an exemption of \$4,305.

1 3. The Trustee seeks authority to sell the personal property at a public auction on or about
2 June 5, 2010, under 11 U.S. C. § 363(b)(1). The court has jurisdiction under 28 U.S.C. § 1334
3 and 11 U.S.C. § 363. This is a core matter under 28 U.S.C. § 157(b)(2)(A) and (N). The Trustee
4 believes that selling the personal property at public auction will yield the best price obtainable
5 for the vehicle under the circumstances of the Chapter 7 case filed by Debtor.
6

7 4. The Vehicle is currently located at 30602 Imperial Street, Shafter, CA, 93263. The
8 Trustee is informed that the auction will be conducted at 30790 7th Standard Road, Shafter, CA,
9 93263.
10

11 5. In order to expedite the sale of the personal property the Trustee entered into an
12 agreement with Jerry Gould of Gould Auction and Appraisal Company, to advertise and manage
13 the auction (“Auctioneer”).
14

15 6. According to the agreement between the Trustee and Auctioneer, the fees for
16 professional services rendered by Gould Auction & Appraisal Company are as follows:
17

- 18 a. Auctioneer is to receive a commission of 15% (fifteen percent) on the gross
19 proceeds from the sale of the unencumbered vehicle.
- 20 b. Buyer will be charged a \$50.00 fee to cover Department of Motor Vehicle transfer
21 of title expense. The \$50.00 DMV fee will be paid directly to the Auctioneer.
- 22 c. Auctioneer’s commission will be noticed in the Trustee’s Notice of Hearing on
23 Motion for Order Authorizing Trustee to Sell Vehicles at Public Auction Sale and
24 creditors will be given the opportunity to object to said commission. If no
25 objections are presented at the hearing, the auctioneer will be paid by the Trustee
26 from the proceeds of said auction sale within ten days of receipt of funds from the
27 auctioneer.
28
29

- 1 d. Auctioneer will be paid \$100 for the pick-up and storage of the personal property,
2 however Auctioneer will bear the cost of all other ordinary expenses including,
3 but not limited to, security, advertising, and other costs of sale. Auctioneer will be
4 reimbursed for any extraordinary expenses, such as repair work deemed by the
5 Trustee to be necessary and beneficial to the estate, in an amount not to exceed
6 \$500 Auctioneer will be reimbursed for any extraordinary expenses in excess of
7 \$500 only after approval of the Court.
8
9 e. A reserve will be placed on the personal property in order to cover the lien and
10 debtor's exemption. The personal property will not be sold if the reserve is not
11 met.
12
13 f. Auctioneer will be responsible for collecting and paying all sales tax in relation to
14 this auction.
15
16 g. The Trustee has reviewed the \$100,000 bond provided by the Auctioneer.

17 7. The Trustee believes that the sale of the personal property at a public auction sale is in
18 the best interest of all parties concerned because (a) it allows the vehicle to be shown to a wide
19 variety of potential buyers, and (b) it allows the estate to find a buyer and complete the sale in a
20 short period of time.

21
22 8. The details of the compensation of the Auctioneer will be subject to the terms and
23 conditions set forth in the *Application for Order Authorizing Employment of Auctioneer to*
24 *Conduct Public Auction.*

25 WHEREFORE, the Trustee prays that:

26
27 1. The *Motion for Order Authorizing Trustee to Sell Personal Property at Public Auction*
28 filed by Randell Parker, Chapter 7 Trustee be granted;
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1 2. He be authorized to sell the personal property at public auction pursuant to the terms
2 and conditions set forth in the *Application for Order Authorizing Employment of Auctioneer to*
3 *Conduct Public Auction;*

4 3. He be authorized to pay Gould Auction and Appraisal Company from the proceeds
5 received from the auction sale; and
6

7 4. He be given such other relief as the Court deems just and proper.
8

9 **DATED: May 3, 2010**

/s/ Randell Parker

Randell Parker